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10 Attorneys for Defendant  
11 BEN & JERRY'S HOMEMADE, INC.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

SKYE ASTIANA, on behalf of herself and all  
others similarly situated,

Plaintiff,

v.  
BEN & JERRY'S HOMEMADE, INC.,

Defendant.

Case No. CV10-4387-PJH (EDL)

**DEFENDANT BEN & JERRY'S  
HOMEMADE, INC.'S  
ADMINISTRATIVE MOTION TO  
SEAL ADDITIONAL PORTIONS OF  
PLAINTIFF'S MEMORANDUM IN  
OPPOSITION TO DEFENDANT'S  
MOTION FOR RECONSIDERATION**

Judge: Hon. Phyllis J. Hamilton  
Action Filed: September 29, 2010

Pursuant to Civil L.R. 7-11 and 79-5, Defendant Ben and Jerry's Homemade, Inc. ("Ben & Jerry's") respectfully requests leave of Court to file under seal additional portions of Plaintiff's Memorandum in Opposition to Defendant's Motion for Reconsideration<sup>1</sup> ("Opposition"). While Plaintiff filed an Administrative Motion to Seal some portions of her Opposition (ECF Dkt. No. 197), this motion to seal failed to include all references to Ben & Jerry's highly-sensitive, confidential business information that Ben & Jerry's also believes is protected by the attorney-client and work-product privileges. Good cause exists to maintain these documents under seal, as described below. *See Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (party must show good cause).

As explained in the accompanying Declaration of William L. Stern in support of this motion ("Stern Declaration"), these additional portions of the Opposition discuss documents that Ben & Jerry's designated "Confidential" pursuant to the Stipulated Protective Order. (ECF Dkt. No. 70.) Section 10 of the Protective Order requires the parties to file under seal any documents designed "Confidential." Thus, Ben & Jerry's respectfully requests that the Court shield this highly-sensitive and confidential business information from the public.

Moreover, these additional portions of the Opposition discuss documents Ben & Jerry's continues to maintain are protected by the attorney-client and work-product privileges or declarations explaining why Ben & Jerry's maintains these documents are privileged. Ben & Jerry's inadvertently produced certain privileged documents to Plaintiff, and although Ben & Jerry's requested that Plaintiff return the documents, she refused. Public disclosure of this information would cause Ben & Jerry's substantial harm because the documents discuss legal advice protected by the attorney-client and work-product privileges. Local Rule 79-5(b) confirms that privileged documents are sealable documents and warrant protection from public disclosure.

Ben & Jerry's respectfully asks that the Court grant its motion to seal this highly-sensitive, confidential business information, which Ben & Jerry's maintains is also privileged, from the

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<sup>1</sup> To avoid confusion, Ben & Jerry's notes that its motion was for *relief* not *reconsideration*.

1 public.

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3 Dated: January 27, 2014

4 WILLIAM L. STERN  
5 CLAUDIA MARIA VETESI  
6 MORRISON & FOERSTER LLP

7 By: /s/ William L. Stern  
8 WILLIAM L. STERN

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DEF.'S ADMIN. MOT. TO SEAL ADDITIONAL PORTIONS OF PLAINTIFF'S OPP. TO DEF.'S MOT. FOR  
RECONSIDERATION  
CASE NO. CV10-4387-PJH (EDL)  
sf-3377277